

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

FILED

AUG 11 2006

CENTRAL DIVISION

UNITED STATES OF AMERICA,

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CR. 05-30097

BSJ

Plaintiff,

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-vs-

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DARRELL CLOWN,

REPORT AND RECOMMENDATION
FOR DISPOSITION OF DEFENDANT'S
MOTION TO SUPPRESS STATEMENTS

*

Defendant.

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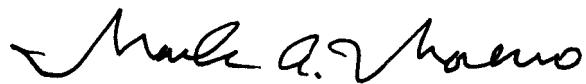
Defendant, Darrell Clown, has filed a Motion to Suppress Statements, Docket No. 25.

Because Defendant's Motion is a dispositive one, this Court is only authorized to determine the same on a report and recommendation basis. See 28 U.S.C. §636(b)(1). Based on the findings, authorities and legal discussion made on the record at the August 11, 2006 hearing, the Court hereby

RECOMMENDS that Defendant's Motion be granted in part and denied in part. The Motion should be granted, to the extent that it seeks to suppress any statements Defendant made on August 11, 2005, following his post-polygraph examination invocation of his Fifth Amendment right to remain silent and/or to stop answering questions and insofar as the Motion seeks to suppress the polygraph evidence. In all other respects, the Motion should be denied.

Dated this 11th day of August, 2006, at Pierre, South Dakota.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTEST:

JOSEPH HAAS, CLERK

BY:  Deputy

(SEAL)

NOTICE

Failure to file written objections to the within and foregoing Report and Recommendations for Disposition by August 16, 2006, shall bar an aggrieved party from attacking such Report and Recommendations before the assigned United States District Judge. See 28 U.S.C. § 636(b)(1).